

1 THE HON. BARBARA JACOBS ROTHSTEIN
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 KING COUNTY, a Washington municipal
corporation,

10 Plaintiff,

11 vs.

12 TRAVELERS INDEMNITY COMPANY, et
al.,

13 Defendants.

14 No. 2:14-cv-01957-BJR

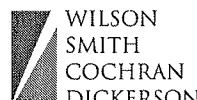
15 DECLARATION OF KEN BATTIS IN
16 OPPOSITION TO PLAINTIFF'S MOTION
17 FOR LEAVE TO FILE FOURTH
18 AMENDED COMPLAINT

19 I, KEN BATTIS, declare as follows:

20 1. I am Vice President, Property & Casualty Business Management on behalf of
21 Westport Insurance Corporation ("Westport"), and the claim handler with primary
22 responsibility for this matter. I make this declaration on my own personal knowledge.

23 2. Westport is the successor in interest to Puritan Insurance Company, which was
24 formerly known as The Manhattan Fire and Marine Insurance Company. The Manhattan Fire
25 and Marine Insurance Company issued a single high layer excess general liability policy to
26 the Municipality of Metropolitan Seattle ("Metro") that is at issue in this action (the "Metro
excess policy"). The Metro excess policy was issued by Manhattan Fire's managing general
agent, Baccala and Shoop Insurance Services ("BSIS"), and was effective from 9/1/76 to

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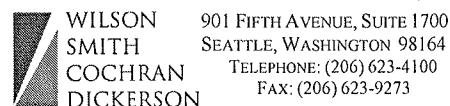
1 9/1/77. A complete copy of the policy was located in archived BSIS records maintained by
 2 Westport, as successor to Puritan Insurance Company, and the parties have entered a policy
 3 stipulation regarding its authenticity.
 4

5 3. As part of my responsibilities as claim handler for this matter, I am familiar
 6 with searches conducted with respect to Westport's available archival records in responding
 7 to Plaintiff's discovery in this action. At no time during the course of discovery did I become
 8 aware of any reference to any other policy issued by Puritan Insurance Company to either
 9 Metro or King County.

10 4. I first learned that Plaintiff sought to amend its complaint to identify one or
 11 more airport liability policy(ies) allegedly issued by Puritan Insurance Company when the
 12 current motion to amend the complaint in this action was filed on or around May 18, 2018. I
 13 immediately undertook a search for any documentation of the alleged policy, using the policy
 14 number listed in Plaintiff's proposed amendment, which was previously unknown to me.
 15 Since the new policy was allegedly issued thirty-five (35) years ago, Westport's search
 16 included a review of multiple boxes of historical paper files that have not been digitized.
 17

18 5. Westport ultimately determined that the policy number appears to be part of a
 19 legacy portfolio of aviation policies issued by Puritan Insurance Company through Southern
 20 Marine & Aviation Underwriters ("SMAU"), which acted as a managing general agent for
 21 multiple insurers, including Westport's predecessor, Puritan, for a relatively short period of
 22 time from the late 1970's until the early 1980's. The SMAU aviation insurance program was
 23 completely separate from the excess liability policies issued by The Manhattan Fire & Marine
 24 Insurance Company (later known as Puritan) through BSIS. Despite a reasonable search and
 25 diligent inquiry, Westport has not yet determined whether Westport Insurance Corporation is
 26

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the successor to alleged liabilities for defense and/or indemnity payments under aviation policies issued by SMAU as part of the SMAU program.

6. SMAU no longer exists, and institutional knowledge of the unique SMAU program and policies is limited, due in part to the death or departure of individuals with knowledge of this little-known program, as well as the lack of complete archival documents, including policy forms and other records that were presumably maintained by SMAU and/or its successors, if any. To date, Westport has not been able to locate a complete copy of the alleged policy and cannot yet determine the scope of insurance that would have been afforded under the alleged aviation policy.

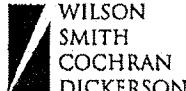
7. I declare under penalty of perjury under the laws of the State of Washington
that the foregoing is true and correct

DATED at Foristell, MO. this 25th day of June, 2018.

Ken Battin

Ken Battis

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on the date set forth below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance with the Federal Rules of Civil Procedure.

DATED this 25th day of June, 2018.

s/ Traci Jay

Traci Jay

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